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PROJECT NO. 51871

REVIEW OF THE ERCOT SCARCITY § PUBLIC UTILITY COMMISSION
PRICING MECHANISM §
§ OF TEXAS

OFFICE OF PUBLIC UTILITY COUNSEL'S INITIAL COMMENTS

The Office of Public Utility Counsel ("OPUC") respectfully submits these comments in response to the request for comments issued by the Staff of the Public Utility Commission of Texas ("Commission Staff") on March 8, 2021.

Question 1. Should the Commission amend its rules to adjust the LCAP?

16 Texas Administrative Code ("TAC") § 25.505(g)(6)(A) provides that:

- (A) The low system-wide offer cap (LCAP) will be set on a daily basis at the greater of:
- (i) \$2,000 per MWh and \$2,000 per MW per hour; or
 - (ii) 50 times the natural gas price index value determined by ERCOT, expressed in dollars per MWh and dollars per MW per hour.

Additionally, 16 TAC § 25.505(g)(6)(B)-(D) states:

- (B) The high system-wide offer cap (HCAP) will be \$9,000 per MWh and \$9,000 per MW per hour.
- (C) The system-wide offer cap will be set equal to the HCAP at the beginning of each calendar year and maintained at this level until the peaker net margin during a calendar year exceeds a threshold of three times the cost of new entry of new generation plants.
- (D) If the peaker net margin exceeds the threshold established in subparagraph (C) of this paragraph during a calendar year, the system-wide offer cap will be set to the LCAP for the remainder of that calendar year. In this event, ERCOT will continue to apply the operating reserve demand curve and the reliability deployment price adder for the remainder of that calendar year. Energy prices, exclusive of congestion prices, will not exceed the LCAP plus \$1 for the remainder of that calendar year.

The LCAP is designed to function as a circuit breaker to protect consumers from excessively high prices over an extended period.

OPUC recommends that the Commission maintain the \$2,000 per MWh and \$2,000 per MW per hour LCAP. At this time, there is no indication that this component of the LCAP should be increased to incent generation and demand response this summer. ERCOT's last Capacity, Demand and Reserves report, issued on December 16, 2020, projected a planning reserve margin of 15.5%.¹ ERCOT has not released its final Summer 2021 Seasonal Assessment of Resource Adequacy report with updated reserve margin projections for this summer. Additional information is also needed to determine whether the February winter weather event impacted generation that was expected to be available this summer. Consequently, OPUC believes that updated information on generation availability and reserve margin projections for this summer are needed for the Commission to better determine whether generation and demand response will need additional incentives this summer for reliability purposes.

Given the high natural gas prices experienced during the February winter weather event, OPUC recommends that the Commission remove the "50 times the natural gas price index value" component from the LCAP in 16 TAC § 25.505(g)(6)(A)(ii), because this component could result in prices higher than the high system-wide offer cap of \$9,000 per MWh and \$9,000 per MW per hour during times when natural gas prices are high. In its February 15, 2021 Order suspending the use of the LCAP, the Commission expressed concern that the LCAP could exceed the high system-wide offer cap of \$9,000 per MWh and \$9,000 per MW per hour if the LCAP was calculated as "50 times the natural gas price index value" during times of exceptionally high natural gas prices.² The Commission recognized that "this outcome would be contrary to the purpose of the rule, which is to protect consumers from substantially high prices in years with substantial generator revenues."³ The Commission further noted that "it would make little sense to expose consumers to prices that are higher than the usual maximum price after [the] generator revenue threshold has been achieved [*i.e.*, the peaker net margin threshold]."⁴

¹ Capacity, Demand and Reserves Report December 2020, ERCOT (Dec. 16, 2021) Resource Adequacy (ercot.com).

² *Issues Related to the State of Disaster for the February 2021 Winter Weather Event*, Project No. 51812, Order Directing ERCOT to Take Action and Granting Exception to Commission Rules (Mar. 1, 2021) (originally filed in Oversight of the Electric Reliability Council of Texas, Project No. 51617 (Feb. 15, 2021)); Project No. 51812, Second Order Directing ERCOT to Take Action and Granting Exception to Commission Rules (Mar. 1, 2021) (originally filed in Oversight of the Electric Reliability Council of Texas, Project No. 51617 (Feb. 16, 2021)).

³ *Id.*

⁴ *Id.*

Question 3: If the Commission amends its rules to adjust the LCAP, when should these adjustments take effect?

OPUC recommends that the Commission remove the “50 times the natural gas price index value” component from the LCAP in 16 TAC § 25.505(g)(6)(A)(ii), as soon as possible, to eliminate the risk of high natural gas prices resulting in an LCAP that is higher than the high system-wide offer cap of \$9,000 per MWh and \$9,000 per MW per hour when the peaker net margin threshold is reached in the future.

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